

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte WILLIAM E. ADAMS, IV

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Appeal No. 2004-1779  
Application No. 09/851,639

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ON BRIEF

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Before COHEN, STAAB and MCQUADE, Administrative Patent Judges.  
MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

This appeal involves the examiner's rejection of claims 1 through 10. Claim 11, the only other claim pending in the application, stands allowed.

THE INVENTION

The invention relates to a suction cup device for holding objects on a wall or other flat surface. Claims 1 and 8, which are representative of the subject matter on appeal, read as follows:

1. A holder comprising:

(a) a suction cup having a cup portion, a neck containing at least one bore having a multi-sided cross section, and

(b) a split ring having two ends, said ends having a multi-sided cross-section complementary to the bore, each end sized and fitted within the at least one bore so that the split ring can be rotated within the bore from a first position to a second position such that in each position every side of the end of the split ring is opposite a side of the at least one bore.

#### THE PRIOR ART

The references relied on by the examiner as evidence of obviousness are:

Brown	4,506,408	Mar. 26, 1985
Adams (Adams '356)	5,078,356	Jan. 7, 1992
Rendall	5,323,996	Jun. 28, 1994
Adams (Adams '865) <sup>1</sup>	6,131,865	Oct. 17, 2000

#### THE REJECTIONS

Claims 1 through 4, 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rendall in view of Brown.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rendall in view of Brown and Adams '865.

Claims 8 through 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams '356 in view of Brown.

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<sup>1</sup> The appellant does not dispute that the Adams '865 patent is prior art with respect to the subject matter on appeal.

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Attention is directed to the main, supplemental and reply briefs filed August 12, 2002, May 12, 2003 and May 5, 2004, and to the answer mailed April 2, 2004 for the respective positions of the appellant and the examiner regarding the merits of these rejections.

#### DISCUSSION

Rendall and Adams '356, the primary references applied in support of the rejections of independent claims 1 and 8, respectively, disclose suction cup holders of the type at issue. The appellant does not dispute the examiner's assessment that Rendall teaches or would have suggested a holder meeting all of the limitations in claim 1 except for those pertaining to the multi-sided cross sections of the suction cup neck bore and split ring ends and that Adams '356 teaches or would have suggested a holder meeting all of the limitations in claim 8 except for those relating to the multi-sided cross sections of the suction cup neck bore and hook end portion. The corresponding cross-sections in these prior art devices are circular so as to permit rotation of Rendall's split ring ends and Adams' hook end portion within their suction cup neck bores. To cure these admitted shortcomings in Rendall and Adams '356, the examiner turns to Brown.

Brown discloses "a structurally uncomplicated hinge structure having variable position settings to allow the members hinged together to be positioned at many different positions relative to each other" (column 1, lines 9 through 12). The reference describes the hinge structure as embodied in devices such as article hangers, door hinges and gate hinges. The Figure 9 embodiment focused on by the examiner includes article fastener plates 60 and 62, a male hinge component 72 on plate 60 and a female hinge component 74 on plate 62. In Brown's words, "the male component 72 is hexagonal in cross section [and] [t]he protruding points 76 of the hexagon [act] as ridges which align with the grooves 78 of female component 74 to effect variable positioning between plates 60 and 62" (column 4, lines 24 through 28]. Either or both of the ridges and grooves comprise a resilient deformable material to allow ratchet-like rotation of the male and female components between locked positional settings.

In proposing to combine Rendall and Brown to reject claim 1, the examiner concludes that it would have been obvious

to have modified the cross sections of the ends of the split ring and the at least one bore of Rendall '996 to be complementary hexagonal cross-sections as in Brown '408 (such that when the ring is rotated within the bore from a first to a second position, *inherently* every side of the end of the ring would be opposite a

side of the at least one bore) so as to provide for a more sturdy holder by allowing the split ring to be more securely maintained in a desired position [answer, page 6; and pages 7 and 8].

Similarly, in proposing to combine Adams '356 and Brown to reject claim 8, the examiner submits that it would have been obvious

to have modified the cross sections of the portion of the J-hook being fitted within the transverse bore and the transverse bore of Adams '356 to be square [sic, hexagonal] cross-sections as in Brown '408 (such that when the ring [sic, J-hook] is rotated within the bore from a first to a second position, *inherently* every side of the end of the ring [sic, J-hook] would be opposite a side of the at least one bore) so as to provide for a more sturdy holder by allowing the J-hook to be more securely maintained in a desired position [answer, page 6; and pages 7 and 8].

Neither Rendall nor Adams '356, however, conveys any indication that it would be advantageous to more securely maintain the split ring or hook respectively disclosed thereby in a desired rotational position relative to the neck of the suction cup. Moreover, while Brown teaches that the hinge disclosed therein can be used in a number of different devices, none of these devices, or the hinge structure in general, is particularly relevant to the suction cup holders disclosed by Rendall or Adams '356. Given the structural and functional disparities therebetween, the only suggestion for selectively combining the suction cup holders disclosed by Rendall or Adams '356 and the

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hinge structure disclosed by Brown stems from hindsight knowledge impermissibly derived from the appellant's disclosure. Thus, even if Brown is assumed for the sake of argument to be analogous art with respect to the claimed invention (the appellant urges that it is not), the combined teachings of Brown and either Rendall or Adams '356 would not have rendered obvious the subject matter recited in claims 1 and 8, respectively.

Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of independent claim 1, and dependent claims 2 through 4, 6 and 7, as being unpatentable over Rendall in view of Brown, or the standing 35 U.S.C. § 103(a) rejection of independent claim 8, and dependent claims 9 and 10, as being unpatentable over Adams '356 in view of Brown.

As Adams '865 does not overcome the above noted deficiencies of Rendall and Brown relative to parent claim 1, we also shall not sustain the standing 35 U.S.C. § 103(a) rejection of dependent claim 5 as being unpatentable over Rendall in view of Brown and Adams '865.

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SUMMARY

The decision of the examiner to reject claims 1 through 10  
is reversed.

REVERSED

IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
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	)	
	)	
	)	BOARD OF PATENT
LAWRENCE J. STAAB	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
JOHN P. MCQUADE	)	
Administrative Patent Judge	)	

JPM/gjh

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